BAIL SLIP

The Appellant in Crl.A.No. 359/99 Viz. G. Manickam (Accused in CC.No. 16/90 dt. 16/4/99 on the file of the I Addl. District cum Judicial Magistrate, Krishnagiri, Dharmapuri) was directed to released on Anticipatory bail as per order of this Court dated 30/4/99 in Crl.MP. 3432/99.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2007

CORAM:

THE HON'BLE MR. JUSTICE M. THANIKACHALAM

CRL.A.NO.359 OF 1999

G. Manickam ...Appellant

vs.

State rep. By Inspector of Police,
Vigilance & Anti Corruption,
Krishnagiri,
Dharmapuri District. ...Respondent.

Appeal filed under Section 374(2) Cr.P.C. against the order passed by the 1st Addl. District Judge-cum-Chief Judicial Magistrate, Krishnagiri, Dharmapuri District in C.C.No.16/90 dated 16.4.1999.

For Appellant : Mr.A. Immanuel

For Respondent : Mr.Hasan Mohammed Jinnah
Govt. Advocate (Crl.Side)

J U D G M E N T

The accused in C.C.No.16 of 1990 on the file of the District Judge-cum-Chief Judicial Magistrate, Krishnagiri, is the appellant.

2. The accused/appellant was employed as Junior Assistant (B-3 Section), Taluk Office, Harur. In the said office, he was handling B-3 Section, which deals with the issuance of Community Certificate. The defacto complainant-Velliangiri having filed an application for obtaining Community Certificate approached the accused/appellant and it seems for processing the file and for issuing certificate, the accused demanded a sum of Rs.400/- originally, then reduced the same to Rs.300/- on 23.3.1989 which was agreed to by the defacto

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complainant to be given on the next day. However, the defacto complainant reported the matter to the Vigilance and Anti Corruption Department, who have arranged a trap proceedings. In the trap proceedings, the amount demanded by the accused, accepted by him were established, leading to investigation of the case, preceded by registration of the crime. Thus accusing, the respondent has filed a case before the court concerned seeking appropriate punishment since the accused/appellant being a public servant, committed the offences under Sections 7 and 13(1)(d) r/w 13(2) of the Prevention of Corruption Act and Section 201 of I.P.C., after obtaining necessary permission from the authorities concerned.

3. The learned Chief Judicial Magistrate-cum-Additional District Judge by going through the final report as well as the connected materials, felt the necessity to frame charges against the accused, since the materials were so sufficient and thus framing, when questioned the accused, disputed the case, pleading not guilty.

4. In order to make out a case and to send the public servant behind the bar, 12 witnesses have been marched in supported by 21 documents and 20 material objects.

5. The learned trial Judge evaluated the above materials applying the provisions of law also, which brought to surface that the charges framed against the accused are proved beyond all reasonable doubt. Thus concluding the accused being a public servant not only demanded illegal gratification i.e. other than the legal remuneration, but also accepted the same, which should come within the meaning of criminal misconduct, the learned Judge found the accused guilty, convicted and sentenced him to undergo one year R.I. and a fine of Rs.500/- in default to undergo two months R.I. for the offences under Sections 7 and 13(1)(d) r/w 13(2) of the Act and Section 201 of I.P.C. each, ordering the imprisonment to run concurrently, which are impugned in this criminal appeal.

6. Facts so essential leading to the final report ending in conviction followed by this appeal briefly as follows:

(a) In the month of March, the accused/appellant-public servant was working as Junior Assistant – B3 Section, Taluk Office, Harur. P.W.1-Velliangiri, who belongs to Kongu Vellalar Community, approached the Taluk Office by preferring Ex.P1 elsewhere in the month of January 1989 for the issuance of Community Certificate accompanied with P.W.2 Ulaganathan. Since the accused/appellant was dealing the file, both of them approached him on 23.3.1989 at about 10.30 a.m. in order to ascertain the position of the file. At that time, the accused demanded from P.W.1 that he should pay a sum of Rs.400/-, which includes the amount payable to the higher authorities also, in order to issue a community certificate. The bargain resulted in a reduction

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of Rs.100/- and in this view, at the request of the accused, P.W.1 agreed to pay a sum of Rs.300/- on 24.3.1989.

(b) P.W.1 not willing to give bribe approached the Vigilance and Anti Corruption Department and preferred Ex.P.2 complaint to P.W.12. On receipt of Ex.P.2, P.W.12 registered a case in Cr.No.1/AC/89 and submitted the printed F.I.R-Ex.P.21 to the Chief Judicial Magistrate. Thereafter, he sent for two official witnesses including P.W.3 and they were introduced to P.W.1 explaining the cases, giving the copy of Ex.P.21 to read and understand also. At the request of P.W.12, P.W.1 handed over 4 Nos. of Rs.50/- currency notes and 8 Nos. of Rs.10/- currency notes. Thereafter, P.W.12 demonstrated and explained the Sodium Carbonate Solution Test and its reaction to Phenolphthalein. The currencies given by P.W.1 were coated with phenolphthalein powder and handed over to P.W.1 to hand over the same in turn to the accused, if he demands money as bribe, giving instructions how P.W.1 should act, thereafter who is to follow P.W.1 etc. The procedure followed was recorded under Ex.P4.

(c) Thereafter, P.W.1, P.W.3 went to the office of the accused at about 2.30 p.m. On seeing P.W.1, the accused asked him whether he brought the amount demanded for which he said 'yes'. When P.W.1 and Perumal-P.W.3 was standing, the accused requested P.W.1 to go near the by pass road where he would come and receive the amount at about 5.45 p.m. P.W.1 informing the same to P.W.2 and P.W.3 when he went to by pass road, the accused who followed him, in a motorcycle, took him as a pillion rider and on the way, he received a sum of Rs.300/-, informing that he can come on the next Monday, to get the certificate, since the same is ready. The Inspector and other people, who followed the accused and P.W.1 were unable to apprehend the accused forthwith.

(d) P.W.12 accompanied by P.W.3 and others went to the house of the accused on the same day at about 7.30 p.m., and disclosed their identity. The hands of the accused were subjected to Sodium Carbonate Solution Test, which proved positive, thereby making it clear that the accused had received the tainted money from P.W.1. Upon enquiry the accused handed over Rs.272/- out of which 3 Nos. of Rs.10/- currency notes alone tallied with the currency notes given by P.W.1, which were recovered under the Mahazar Ex.P.5 and they are M.Os.8, 9 & 10. The shirt worn by the accused as well his hands were also subjected to Sodium Carbonate Solution Test, which proved positive. Thus confirming the accused should have received the amount, he was arrested at about 8.30 p.m. and the procedures adopted so far were incorporated under Ex.P.5.

(e) As per the statement given by the accused he took the Inspector and other witnesses to a Petrol Bunk called Sivasakthi & Co. wherefrom 1 No. of Rs.50/- currency note, 5 Nos. of Rs.10/- currency notes - M.Os.1, 5 to 7, 11 & 12 were recovered under Ex.P.6 since

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those currency note numbers tallied with the currency notes given by P.W.1 which was tainted with phenolphthalein powder. Thereafter, upon identification by the accused, from Ghouse Mohideen P.W.8, M.O.3 was recovered under Ex.P7. Then upon identification of Bhaskaran-P.W.9 by the accused, 2 Nos. of Rs.50/- currency notes and 4 Nos. Rs.10/- currency notes were recovered under Ex.P.8. They tallied with the currency note numbers given by P.W.1 at the first instance which was in turn handed over to him after coating phenolphthalein powder to be handed over to the accused on demand. Thereafter, from the Taluk office also, connected application and other files were recovered. The investigation conducted by P.W.12, statements recorded by him, material objects recovered during the course of the investigation revealed that the accused should have demanded and received illegal gratification for the issuance of Community Certificate to P.W.1, which he is not entitled to do so since the same is prohibited being the amount representing other than the legal remuneration. Thus satisfying that the accused had committed the offence under Sections 7, 13(1)(d) r/w 13(2) of the Act and under Section 201 IPC as said at the first instance, final report came to be filed, leading to trial, ending in conviction, followed by this appeal.

7. Heard the learned counsel Mr.A. Immanuel appearing for the appellant and the learned Govt. Advocate (Crl. Side), Mr. Hasan Mohamed Jinnah,

8. Mr. A. Immanuel, the learned counsel appearing for the accused/appellant would submit,

(i) that there is no satisfactory evidence to prove the demand said to have been made by the accused before accepting the alleged bribe, which was not at all considered by the learned trial Judge;

(ii) that there is a lot of unexplained contradictory evidence not only regarding the amount said to have been given by P.W.1, but also about the amounts said to have been recovered at the instance of the accused from different persons and this being the position, the trial Court should have held the acceptance of the amount is also not proved as required;

(iii) that the accused being known to P.W.1 on the date of the alleged incident, he had received changes alone for Rs.300/- from P.W.1 which will not amount to acceptance of illegal gratification, not considered by the trial Court;

(iv) that there is no duty or obligation on the part of the accused, to issue Community Certificate and this being the position, the very basis for the issuance of the Community

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Certificate the accused demanded the amount must be incorrect, not considered by the trial Court;

(v) that the explanation offered by the accused in receiving the amount from P.W.1 should have been accepted, if so, no case is made out either under Section 7 or under Section 13(1)(d) r/w 13(2) of the Act or under Section 201 IPC.

(vi) that the sanction said to have been granted for prosecution is by an incompetent person and therefore, taking cognizance of the case itself is the violation of law and in this view, the benefit should go to the accused; and

(vii) that due to prior enmity or motive, since the accused/appellant had agitated for the welfare of the staff, a false case came to be foisted against him, not considered by the trial Court.

Elaborating the above points in detail, taking me through the evidence also and seeking support from some judicial precedent, a strenuous appeal has been made to release the accused from the clutches of the conviction as if the accused has not committed any offence or in other words offence has not been proved beyond all reasonable doubt as mandated under the criminal jurisprudence.

9. The learned Government Advocate responding to the above submission would submit that the demand other requirements or ingredients, which are necessary to sustain a conviction are all made out beyond all reasonable doubt as recorded by the trial Court and therefore, interference would amount to giving premium to this kind of acts and in this view, there was a strong plea for confirmation of the conviction and sentence.

10. The accused was working as a Public Servant is not in dispute. On the date of the incident, admittedly he was a Junior Assistant. As far as the Junior Assistant is concerned, the Revenue Divisional Officer is the competent person to remove him from the service and therefore, if sanction was granted by the R.D.O. or the person who is in that cadre is sufficient. In this view, Ex.P.16 sanction order was issued by the P.A. (General) to Collector, which post is in the cadre of R.D.O. The sanction granted under Ex.P.16 was not challenged by the learned counsel for the accused/appellant on any other grounds except on the ground that the person granted sanction is incompetent. It seems on the date of granting sanction the accused has been promoted as Assistant. Therefore, according to the learned counsel for the appellant the competent authority to remove an Assistant from the service in the Revenue Department is only the District Revenue Officer and therefore, the order passed by a person

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less than the rank of District Revenue Officer should be held incompetent. The fallaciousness of the above said submission could be seen from the cursory reading of Section 19 of the P.C. Act.

11. Section 19(2) of the Act reads:

> "Where for any reason whatsoever any doubt arises as to whether the previous sanction as required under sub-section(1) should be given by the Central Government or the State Government or any other authority, such sanction shall be given by that government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed."

thereby showing the position of the accused should be taken into account at the time when the offence was alleged to have committed not on the date of granting or according sanction. In this case, the offence said to have been committed by the accused while he was admittedly working as Junior Assistant i.e. in the month of March 1989. Therefore, the subsequent promotion if any need not be taken into consideration in view of the above said provision and in view of the fact that the accused is prosecuted for the offence said to have been committed by him as Junior Assistant in the B3 Section of the Taluk Office, Harur District, not in the capacity of the Assistant where he might have worked subsequent to the incident. When this was pointed out, I find no answer from the learned counsel for the appellant. The concerned officer, who accorded sanction has been examined as P.W.7. He would state that the Personal Assistant (General) to the Collector is competent to remove a Junior Assistant from the post and in that capacity he accorded sanction for prosecution under Ex.P.16 to prosecute the accused. When he was cross examined, though his power was challenged, the same is not substantiated, that too when the Section itself is specific that the position of the accused on the date of the alleged incident alone should be taken into account. Thus accepting the oral evidence of P.W.7 as well as Ex.P.15, I conclude the sanction accorded to prosecute the accused is perfectly valid and there is no infirmity or any violation of the law in taking cognizance of the offence. Further as submitted by the learned counsel for the respondent, even assuming that there is some error that will not vitiate or invalidate the entire proceedings and on this account also, acquitting the accused as if he was prosecuted against the law is an impossibility.

12. The learned Government Advocate further argued that even assuming that there was some irregularity in obtaining the sanction, conviction slapped upon the accused cannot be set aside on that ground as envisaged under Section 465 of Criminal Procedure Code. In support of the above submission, he also invited my attention to the decisions of the Apex Court in State of Orissa vs. Mrutunjaya Panda (1998

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Crl.L.J 782) & Central Bank of Investigation v. V.K. Sehgal (AIR 1999 SC 3706).

13. In the case involved in the first decision, the High Court intervened and set aside the conviction only on the ground that there was no valid sanction to prosecute the accused, which was challenged before the Apex Court. A Constitutional Bench of the Apex Court considering the scope of Section 465 Cr.P.C. as well as the irregularity alleged in granting sanction, has ruled that the alleged irregularity alone cannot be the basis to set aside the conviction. As seen from paragraph-2, it is observed that,

> "On perusal of the impugned judgment we find that the High Court's attention was not drawn to the provisions of Section 465 of the Code of Criminal Procedure which expressly lays down, inter alia, that any error or irregularity in any sanction for the prosecution shall not be a ground for reversing an order of conviction by the appellate Court unless in the opinion of that Court a failure of justice has in fact been occasioned thereby.',

thereby showing unless it is shown that irregularity alleged had caused any failure of justice, setting aside the conviction may not be proper.

14. The same view was reiterated by the Apex Court in the second decision cited supra, wherein it is held:

> "While dealing with the appeal filed against the conviction and sentence of any offence mentioned in 1947 Act, the legal position is that no such conviction and sentence shall be altered or reversed merely on the ground of absence of sanction, much less on the ground of want of competency of the authority who granted the sanction."

15. As seen from the cross examination of the sanctioning authority, there was an attempt on the part of the accused to question his competency, which is proved to be incorrect in view of my conclusion supra. Further except the argument advanced that in the absence of a valid sanction, taking cognizance of the offence is invalid, nothing was shown before me how that caused prejudice or ended in failure of justice, in arriving the just conclusion. In this view also, it is to be held, as contemplated under Section 465 Cr.P.C. that neither the conviction nor the sentence passed by the competent court shall be reversed or altered by this Court.

16. The submission of the learned counsel for the appellant that in order to sustain a conviction under Section 7 of the Prevention of Corruption Act, there should be a demand and for the same in this case, there is no proof at all and in this view, the conviction

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slapped upon the accused under Section 7 of the Act is not at all maintainable. By going through the oral evidence of P.Ws.1 & 2 and the nature of the dependability, I am unable to affix my seal of approval to the above contention of the learned counsel for the accused. As seen from the oral evidence of P.Ws.1 & 2, there is no strained relationship between the accused and these witnesses and even the suggestion thrown appears to be not well founded, having the power to doubt about the genuineness of the evidence given by P.Ws.1 & 2. Admittedly, P.W.1 applied for Community Certificate and the same is spoken by Tahsildar as well as as evidenced by the files also. Therefore, ordinarily there would not have been any reason or motive for P.Ws.1 & 2 to implicate the accused as if he had demanded bribe. P.W.1 has categorically deposed before the trial Court that on 23.3.1989 when he and P.W.2 Ulaganathan went to the office of the Tahsildar and met the accused, he demanded a sum of Rs.400/- for the purpose of issuing Community Certificate, which was later reduced to Rs.300/-. The evidence so given by P.W.1 regarding the demand as seen from the cross examination is not at all erased. The fact in the room along with the accused, some other persons were also present may not be a ground to say, that the accused would not have demanded the amount. P.W.2 has also testified about the demand made by the accused with Velliangiri-P.W.1. The evidence so given by P.Ws.1 & 2, in my considered opinion clinchingly, proves the demand made by the accused and therefore, the submission of the learned counsel for the accused/appellant placing reliance upon certain decisions that in the absence of demand, convicting the accused/ appellant may not be legally sound, appears to be improper. If PWs.1 & 2 have not stated anything about the demand made by the accused, then the decisions relied on by the learned counsel for the accused/appellant may come to his aid. In view of the specific evidence available on record, I am constrained to hold that there was actual demand by the accused for the purpose of issuing Community Certificate, thereby satisfying the requirement of demand also.

17. Admittedly, the accused was not the competent authority to issue the Community Certificate though he was dealing with the file as spoken by the witnesses. When the accused himself is not the competent authority to issue the Community Certificate, it is the submission of the learned counsel for the accused/appellant that the case of the prosecution is the accused demanded and accepted a sum of Rs.300/- for the issuance of the Community Certificate must be false, placing reliance upon a decision of the Apex Court in State vs. K. Narasimhachary (2006 Crl.L.J. 518) which appears to be well distinguishable. Therefore, on the basis since the accused himself is not the competent authority to sign the Community Certificate, the case of the prosecution cannot be thrown out, as if falsely foisted. If a person applies for a Community Certificate, a file would be opened and that shall be processed by the concerned clerk including putting up office note. Then only the Tahsildar, who is competent to

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issue a certificate, will sign the Community Certificate. In this view, though the accused was not the actual person, to sign in the Community Certificate; as the competent person, he was the competent, to process and put up office note for the issuance of the Community Certificate, not in question. In the case cited by the learned counsel for the accused/appellant, the accused was only a recommending authority, and not the final authority. It is also made out as seen from the judgment, the certificate required therein, was already forwarded and signed by final authority before the alleged demand of bribe, by the accused. Therefore, it was felt, there would not have been any necessity, for the recommending authority to demand the amount since the final authority himself had signed the certificate. Thus considering the facts and circumstances of the case, the Supreme Court has ruled when the accused is a recommending authority that too when the certificate was already signed, the case must be a false, which dictum cannot be straight away made applicable to the case on hand. In the case on hand admittedly on the date of the demand or on the date of acceptance, the Tahsildar has not signed the certificate. It is also in evidence that recommendation file was not processed in order to reach the Tahsildar to get the final order. Therefore, the accused had every chance to demand the amount in order to process the file, to put up office note then to obtain the signature of the Tahsildar. It is also the evidence of P.W.1, that the accused demanded the amount not only for him, but also for the higher authorities. In this view of the matter, only on the ground the accused is not the competent authority to issue the community certificate, the case proved otherwise against him for the reasons which I am going to advert infra, setting aside the conviction is an impossibility and in this view, this defence is also rejected.

18. It is the case of the prosecution, that P.W.1 had agreed to give a sum of Rs.300/- to the accused. It is the further case of the prosecution, that only a sum of Rs.300/- was handed over by P.W.1 to P.W.12. But as seen from the examination, even in chief, P.W.12 has stated that P.W.1 handed over 4 Nos. of Rs.50/- currency notes and 8 Nos. of Rs.10/- currency notes, totalling a sum of Rs.280/-. P.W.1 has stated that he has handed over 4 Nos. of Rs.50/- notes and 10 Nos. of Rs.10/- currency notes. Recovery on the basis of the statement given by the accused also not to the extent of Rs.300/-, which I will advert infra also. Thus there is some discrepancy regarding the actual amount given by P.W.1 to P.W.12 as well as the actual amount recovered from the accused or from the persons shown by the accused. Taking advantage of this fact, the learned counsel for the accused/appellant argued that the above said inconsistency should falsify the case of the prosecution and therefore, the benefit of doubt should be given to the accused.

19. By going through the entire evidence, as well as the recovery and the case of the accused also, I am unable to doubt, about

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the genesis of the prosecution case only on the basis of the above discrepancy. The accused was examined under Section 313 Cr.P.C. and at that time, he has filed a written statement also, wherein he has admitted about the receipt of Rs.300/- from P.W.1, explaining that he has received that amount, as change for 3 Nos. of Rs.100/- notes. Though P.W.12 has stated, at the first instance as if a sum of Rs.280/- was given to him by P.W.1, later on he has asserted throughout, that Velliangiri had given Rs.300/-, which was coated with phenolphthalein powder, noting the currency numbers etc., which is evidenced by the Mahazar (Ex.P.4) prepared then and there. For these reasons, the discrepancy or inconsistency, as the case may be, fails to create any doubt in my mind to doubt about the genesis of the case and in this view, this defence also deserves to be rejected. Therefore, we have to see whether the amount of Rs.300/- viz., tainted amount was given by P.W.1 to the accused, accepted by him as bribe or he received the same as change for 3 Nos. of Rs.100/- notes.

20. P.W.1 would state that on 24.3.1989 when he along with P.W.2 went to the Taluk Office at about 2.30 p.m., the accused questioned them whether he brought the amount or not for which he said 'yes'. It is the case of P.W.1 at that time P.W.3 was standing near the Verandah. He has further deposed, at the request of the accused, once again he went to the office at 5.30 p.m. and at that time, the accused informed him that he should go to by pass road where the accused will come and receive the amount. He has further deposed as requested by the accused when he went towards the by pass road, within five minutes, the accused came in a motorcycle, requested him to take the pillion seat and on the way, the accused had received a sum of Rs.300/- informing that the certificate is ready and he could come and receive the same on Monday. This is also supported by the oral evidence of P.W.3 and in a way strengthened by the statement given by the accused while he was examined under Section 313 Cr.P.C.

21. In the statement filed by the accused, he admits that P.W.1 travelled in his motor cycle as pillion rider and when he got down from the motor cycle he received a sum of Rs.300/- as change for 3 Nos. of Rs.100/- notes. The explanation offered by the accused that when he requested a shop owner for change for Rs.300/-, P.W.1 offered to give change and therefore, he received the sum of Rs.300/- from PW1 appears to be highly improbable and unacceptable. There was no necessity, for the accused to get change for 3 Nos. of Rs.100/- notes, since it is not the case of the accused in the statement that he had purchased some goods from the shop owner and unable to get a change for Rs.100/-, PW1 came to his help or something like that. This being the position, the attempted explanation by the accused for 3 Nos. of Rs.100/- notes, he received changes from the accused fails to inspire my confidence and this explanation is sought for, to explain the acceptance of the illegal gratification. As accepted by the accused, he had been to Petrol Bunk, grocery shop, ration shop etc. For

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Rs.100/- note certainly in the petrol bunk, changes would be available. Therefore in the ordinary course, there would not have been any necessity, for the accused to get change for 3 Nos. of Rs.100/- notes. Having received the tainted notes from PW1, in order to escape from the clutches of the law, the explanation is thought of and the same cannot be accepted at any stretch of imagination. In view of the admitted position that the accused had received a sum of Rs.300/- (tainted amount), then it is for the accused under what circumstances he came to be in possession of the said tainted currency notes and in this attempt as said above, he failed. As spoken by PW.12 from the persons shown by the accused viz., Petrol Bunk, ration shop, grocery shop, totally a sum of Rs.280/- viz., MOs.1 to 12 were recovered and their serial numbers tallied with the currency notes given by PW.1 to PW.12, which was coated with phenolphthalein powder, then handed over to the accused when he demanded after his finishing his preliminary work for the issuance of Community Certificate. Only Rs.20/- is missing. When the accused had used Rs.300/- given by PW1 for the purchase of petrol, and other articles, some of the currency notes would have gone to some other hands from the shop, but the fact remains a sum of Rs.280/- (tainted amount) given by PW1 is recovered only from the person viz., the accused as well as the persons shown by the accused, which would go to show that the accused having accepted the tainted amount, attempted further to screen the same also by spending probably in anticipation of some problem, which act should attract Section 201 IPC also as rightly held by the trial Court.

22. The shirt worn by the accused, his hands were subjected to phenolphthalein test as spoken by P.W.12 and as recorded by him in the Mahazar also, not under challenge, which is also admitted by the accused when he was examined under Section 313 Cr.P.C. This fact coupled with the statement given by the accused while he was examined under Section 313 Cr.P.C. amply proves beyond all reasonable doubt that the accused had accepted the amount from P.W.1 preceded by demand and the same should be the illegal gratification, attracting Section 13 of the Prevention of Corruption Act.

23. Section 20 of the Act contemplates certain kind of presumption when a case is filed for the offence punishable under Section 7 or Section 11 or clause (a) or clause (b) of sub-section (1) of Section 13, if it is proved that the accused has accepted or obtained any gratification, it should be presumed that he accepted or obtained the gratification as a motive or reward attracting Section 7 of the Act. In this case, not only on the basis of the acceptance of the amount by the accused and recovery, but also on the basis of the unassailable evidence, it is proved beyond all reasonable doubt, that the accused having demanded the amount from P.W.1 accepted a sum of Rs.300/-. Therefore, on the basis of the presumption contemplated under Section 20 of the Act also, it should be held that he had committed an offence under Section 7 of the Act.

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24. In the light of the above discussion, as well as viewing the case from all possible angles, the irresistible conclusion that could be drawn by the Court is, that the accused being a public servant, violated Sections 7 & 13(1)(d) r/w 13(2) of the Act in addition to Section 201 IPC also, for which he was rightly tried, legally convicted, imposing the minimum sentence, which does require only confirmation not any modification or setting aside as the case may be.

In the result, the appeal fails and the same is dismissed confirming the judgment of conviction and sentence passed in C.C.No.16/1990 on the file of the 1st Addl. District Judge-cum-Chief Judicial Magistrate, Krishnagiri dated 16.4.1999. The accused was granted bail by this Court in Crl.M.P.No.3432 of 1999 by order dated 30.4.1999 and therefore he is directed to surrender before the court concerned within 15 days from today failing which the trial Court is directed to take steps to secure the accused to serve out the remaining period of sentence.

kv

Sd/
Asst. Registrar

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Sub Asst.Registrar

TO

1. THE FIRST ADDITIONAL DISTRICT JUDGE CUM CHIEF JUDICIAL MAGISTRATE, KRISHNAGIRI, DHARMAPURI DT.

2. THE CHIEF JUDICIAL MAGISTRATE, KRISHNAGIRI

3. THE INSPECTOR OF POLICE, VIGILANCE & ANTI CORRUPTION, KRISHNAGIRI, DHARMAPURI DISTRICT.

4. THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

1 CC TO MR.A. IMMANUEL, ADVOCATE SR 6296

JUDGMENT IN
CRL.A.NO.359 OF 1999

TEJ(CO)
BP/15.2

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